

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CITY OF HICKMAN, KENTUCKY

ALLEGED VIOLATION OF 807 KAR 5:022

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) CASE NO. 97-350
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O R D E R

On August 18, 1997, the Commission directed the City of Hickman, Kentucky ("Hickman") to appear before it and show cause why it should not be penalized pursuant to KRS 278.990 and 278.992 for its alleged violations of Commission Regulation 807 KAR 5:022. Following the commencement of this proceeding, Hickman and Commission Staff entered into negotiations to resolve all outstanding issues in this proceeding. On May 26, 1998, they executed a Settlement Agreement and jointly moved for Commission review of that Agreement.

Following the submission of the Settlement Agreement, Hickman petitioned for permission to purchase \$1,000 of gas safety equipment in lieu of the payment of the \$1,000 penalty set forth in the Settlement Agreement.¹ In support of its petition, Hickman argues that it has already corrected the deficiencies noted in the Comprehensive

¹ Hickman's action is consistent with Paragraph 3 of the Settlement Agreement that expressly provides for such petition.

Inspection Report and that "the imposition of probation for two years will be a strong incentive for Hickman to remain in compliance."²

In reviewing this Settlement Agreement and Hickman's petition, the Commission has considered, inter alia, the serious nature of the violations, Hickman's past compliance with Commission gas safety regulations, and its efforts to correct the deficiencies found in the most recent inspection of its gas distribution facilities. The Commission finds that Hickman's petition should be denied. As Hickman is already obligated to maintain adequate safety equipment, its requested relief will not enhance safety. Moreover, granting the requested relief sends the wrong message to other gas distribution utilities and fosters the erroneous belief that Commission gas safety regulations may be ignored without fear of any consequences. It negates the punitive aspects of the Settlement Agreement and permits Hickman to escape the consequences of its past misconduct.

The Commission finds that the Settlement Agreement, with the modifications to the penalty amounts, should be approved. The Commission finds that the penalty provisions of the Settlement Agreement are inadequate. Given the serious nature of the violations and Hickman's past history of non-compliance, the appropriate penalty in this matter should be \$20,000. The Commission further finds that Hickman should be required to immediately pay \$2,500 of this penalty and that the remainder should be suspended for a period of two years. If during that period Hickman has complied with all Commission gas safety regulations, the remaining penalty should be vacated. Should Hickman fail to

² Hickman's Memorandum at 2.

comply with the Commission's gas safety regulations at any time during this period, the remaining penalty shall become due and payable immediately.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, as modified in this Order, is approved.
2. Hickman's Petition is denied.
3. Hickman is assessed a penalty of Twenty Thousand Dollars (\$20,000) for its violations of Administrative Regulation 807 KAR 5:022.
4. Within 10 days of the date of this Order, Hickman shall pay to the Commonwealth of Kentucky the sum of Two Thousand Five Hundred Dollars (\$2,500). This payment shall be in the form of a cashier's or certified check made payable to "Treasurer, Commonwealth of Kentucky" and shall be mailed or delivered to: Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602. The remaining portion of this penalty is suspended for a period of two years.
5. If, at the end of two years, Hickman has fully complied with the terms of the Settlement Agreement and is in substantial compliance with Administrative Regulation 807 KAR 5:022, the remaining portion of the assessed penalty (\$17,500) shall be vacated.
6. If within two years of the date of this Order, Hickman violates any term of the Settlement Agreement or Administrative Regulation 807 KAR 5:022, the remaining portion of the assessed penalty (\$17,500) shall become immediately due and payable upon such violation.

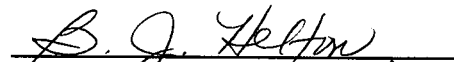
7. Within 20 days of the date of this Order, Hickman shall advise the Commission in writing of each item of gas safety equipment required by Administrative Regulation 807 KAR 5:022 that it lacks.

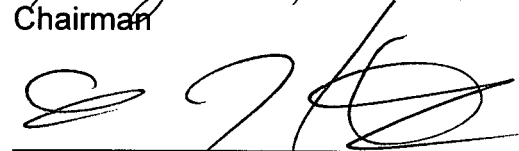
8. If Hickman intends to exercise its right to withdraw from the Settlement Agreement because of modifications ordered herein, it shall notify the Commission of its intention in writing within 20 days of the date of this Order.


9. If Hickman exercises its right to withdraw from the Settlement Agreement, Ordering Paragraphs 1 through 6 shall be vacated and Hickman shall appear before the Commission on August 25, 1998 at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purpose of showing why it should not be penalized for its alleged violations of Administrative Regulation 807 KAR 5:022.

Done at Frankfort, Kentucky, this 14th day of July, 1998.


PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director